



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

June 30, 2021

BY ECF

The Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

Re: *The New York Times Co. v. Dep't of Defense, et al.*,
No. 19 Civ. 9821 (VSB)

Dear Judge Broderick:

This Office represents Defendants Department of Defense (“DOD”) and Office of the Director of National Intelligence in the above-referenced case brought by Plaintiff The New York Times Company (“Plaintiff”), pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. On behalf of the parties, we write respectfully pursuant to the Court’s order dated May 3, 2021, Dkt. No. 27, directing the parties to provide a status update and a proposed production schedule.

Nature of the Action and Status Update

Since the parties’ last status update on April 30, 2021, DOD’s ability to review and process these materials continues to be limited by the current global pandemic. As before, the overwhelming majority of the records that must be searched and reviewed are housed at the Army’s National Detainee Reporting Center (“NDRC”), which prior to the Plaintiff’s FOIA requests had taken custody of over 12,000,000 pages of records from the U.S. Central Command (“CENTCOM”) that need to be searched. NDRC has been able to retrieve some of the sampling information that was collected pre-pandemic, and undersigned counsel has shared preliminary information with counsel for Plaintiff regarding those materials. The parties are discussing which, if any, of the sampled materials can be reviewed and processed at this time.

Also since the last status update, NDRC was able to locate a separate hard drive containing additional records received from CENTCOM beyond the previously-described 12,000,000+ pages. NDRC has now commenced an initial assessment of those files on the hard drive, none of which have yet been integrated into NDRC’s records system. The hard drive contains 4.25 terabytes of data, comprising over 10,000 folders containing over 550,000 individual files. Due to the continuing limitations imposed by the pandemic and the secure nature of the facility and computer systems involved (that cannot be accessed remotely), NDRC

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estimates that it will take several weeks to sort through and identify the potentially responsive data that must be reviewed and processed for this FOIA request.

The parties understand that the Court's May 3 Order directed the parties to proposed production deadlines in this status update, but the parties have conferred and believe that, in light of the foregoing, it is still not possible to set production deadlines at this time, as the NDRC expects that the bulk of the potentially responsive materials that must be reviewed and processed are in the hard drive that is still being assessed. Accordingly, the parties respectfully request that the Court permit the parties to submit a further status report on August 31, 2021, advising the Court of the parties' progress on this matter.

We thank the Court for its consideration of this request.

Respectfully submitted,

AUDREY STRAUSS
United States Attorney

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810

cc: (by ECF)
David McCraw, Esq.
Alexandra Settlemayer, Esq.
Counsel for Plaintiff